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April 18, 2016

**BY ECF/CM**

Hon. Raymond J. Dearie, U.S.D.J.  
United States District Court  
225 Cadman Plaza East  
Brooklyn, NY 11201

**Re: Onewest Bank, N.A. v. Simon et al., 1:14-cv-06622-RJD-CLP**

Dear Judge Dearie,

I have this date filed a Notice of Appearance as counsel for Nechuma Simon and Aaron Simon, who are husband and wife and defendants in the above-referenced action.

I respectfully write to request a pre-motion conference with the Court to request leave to file a dispositive motion on behalf of Mr. and Mrs. Simon. The proposed motion is in two parts. The first part would seek an Order, pursuant to Rule 55(c) of the Federal Rules of Civil Procedure, vacating the Clerk's notation of default, entered on April 8, 2015 against Mr. and Mrs. Simon and others, and granting the Simons leave to interpose an answer. Second, the proposed motion would seek an order dismissing the Complaint as against Mr. and Mrs. Simon, pursuant to FRCP Rule 12(b)(5), for insufficient service of process.

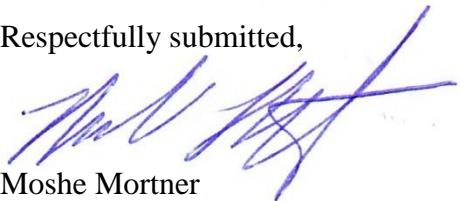
In support of the requests for relief pursuant to Rules 55 (c) and 12 (b)(5), in the Simons' proposed motion, Mrs. Simon will submit a surveillance video taken at her home, evidencing that the Plaintiff's process server failed to serve Mrs. Simon, personally or on behalf of her husband, on the date alleged in the process server's affidavit of service. Mr. and Mrs. Simon will further declare that they intended no disrespect to the Court by their default in appearance, and that they did not know about this action, due to the failure of the process server to serve them.

Based on the foregoing, it is respectfully requested that the Court schedule a pre-motion conference regarding the request of defendants Nechuma Simon and Aaron Simon to move for

Hon. Raymond J. Dearie, U.S.D.J.  
April 18, 2016  
Page 2

the relief above-mentioned. I further request that the Court not schedule such conference during the holiday of Passover, April 25 through April 29, 2016.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Moshe Mortner".

Moshe Mortner

cc: Hon. Cheryl L. Pollak, U.S.M.J. (by ECF/CM)  
Michael William, Esq. (by ECF/CM)  
Steven Rosenfeld, Esq. (by ECF/CM)